

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 85 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE  
and  
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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ELSCOPE PVT. LTD.

Versus

COMMISSIONER OF INCOME TAX  
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Appearance:

MR RK PATEL for Petitioner  
MR MANISH R BHATT for Respondent No. 1  
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CORAM : MR.JUSTICE A.R.DAVE  
and  
MR.JUSTICE D.A.MEHTA

Date of decision: 11/06/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

At the instance of the assessee, the following question has been referred to this court for its opinion under the provisions of sec. 256(2) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') by the Income Tax Appellate Tribunal, Ahmedabad Bench 'B'.

"Whether, on the facts and in the circumstances of the case, investment allowance originally allowed was properly withdrawn?"

2. We have heard learned advocate Shri R.K. Patel appearing for the applicant-assessee and learned advocate Shri B.B. Naik appearing for the respondent-department.

3. It has been fairly submitted by the learned advocates that the question, which has been referred to this court in this reference, has been now concluded in case of M/s. Kalindi Investments Pvt. Ltd. v. CIT, 213 ITR 207.

4. It is not in dispute that the question of law, which has been raised in the present reference and in the case which has been referred to hereinabove, is identical.

5. The question, which has been referred to hereinabove, has been decided in affirmative i.e. in favour of the revenue in the case of M/s. Kalindi Investments (supra).

6. In view of the said fact, the question, which has been referred to this court in the present reference is also answered in affirmative i.e. in favour of the revenue and against the assessee.

The reference is answered accordingly with no order as to costs.

(A.R. Dave, J.)

(D.A. Mehta, J.)

(hn)